From: Dalton, Paul

To: Microsoft Case at DOJ (E-mail), Lessig (E-mail)

Date: 12/10/01 6:02pm **Subject:** Microsoft's X-Box

I thought you might be interested in this portion of the latest Robert Cringley article in InfoWorld:

"Meanwhile, a reader has reminded me of recent reports based on Microsoft's admission at Comdex Las Vegas that it loses around \$100 per unit on the X-box game console, with breakeven not expected until sometime in 2004.

You have to ask yourself whether selling below cost is "seeding the market" or if it's that other technical term, "dumping," given the company's plans to turn the consoles into Microsoft-affiliated Internet gaming machines."

OR . . . Microsoft could be simply "buying" the market for game hardware with the eventual intent to do in the game industry just what it did to Netscape: Seize the market away from Nintendo, Sega & Sony so that Microsoft is the dominant player in yet another market where it effectively has "the operating system" (in this case, the hardware contains the operating system, which doesn't get licensed to other "box" makers). Once Microsoft has a high enough percentage of the hardware market, it effectively controls the game operating system market. At that point, Microsoft will be able to play the same sorts of tricks on game developers that it has in the past on software developers: Giving Microsoft's own developers either or both of more or earlier information than is given to competitors in the game development market, thereby giving Microsoft -- once again -- an unfair advantage.

Just my thoughts.

Paul Dalton